

Notice of Allowability

Application No.

09/912,975

Examiner

Hoang-Vu A. Nguyen-Ba

Applicant(s)

BIRKHOLZ ET AL.

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/16/05.
2. ☒ The allowed claim(s) is/are 12-14 and 26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 12/18/01, 5/28/04, 1/31/05 *han*
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Hoang-Vu A. Nguyen-Ba

ANTONY NGUYEN-BA
PRIMARY EXAMINER

NOTICE TO APPLICANTS

1. This action is responsive to amendment filed November 16, 2005.
2. Claims 12, 13, 14 and 26 are pending. Claims 12, 13, 14 and 26 are independent claims.

RESPONSE TO APPLICANTS' AMENDMENTS

3. Amended Claims 12, 13, 14 and 26 have been entered.

RESPONSE TO APPLICANTS' ARGUMENTS

4. Applicants' arguments regarding the Office's obviousness-type double patenting rejection of Claims 12-14 and 26 are persuasive, except for the legal standard argument. According to the Office's record, the present application is still assigned to IBM, Inc. and not to Levono, Inc. as submitted by Applicants. The examiner agrees with Applicants that the claimed subject matter of the present application is now patentably distinct from that of Hellenstein. It should be noted that Hellenstein has been recently issued for a different reason for allowance. The obviousness-type double patenting rejection of Claims 12-14 and 26 is thus withdrawn.

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the specification:

a. ¶[0055], delete "Figure 43 illustrates" and insert – Figures 43A-C illustrate -- ;

b. ¶[0064], delete "Figure 52 illustrates" and insert – Figures 52A-D illustrate --.

In the claims:

Claim 13: at line 5, delete the conjunctive "and" at the end of the line.

EXAMINER'S STATEMENT OF REASON(S) FOR ALLOWANCE

6. Claims 12, 13, 14 and 26 are allowed.

7. The following is an examiner's statement of reasons for allowance:

U.S. Patent No. 6,789,215 to Rupp et al., new prior art reference made of record, teaches a method for analyzing a computer to determine the configuration of the computer (1:62-63), managing installation, upgrade and deletion of a software package (1:65-66) and detecting a prompt from the software package requiring entry of a command (2:3-4).

However, Rupp et al., taken individually or in combination, fails to teach or suggest each and every limitation recited in Claim 13. Claim 14 recites a system version of the method recited in Claim 13. Claims 12 and 26 recite similar features of Claim 13 and additional features not anticipated by and unpatentable over Rupp et al.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hoang-Vu A. Nguyen-Ba whose telephone

number is (571) 272-3701. The Examiner can normally be reached on the following days of a bi-week: Monday-Thursday (first week) and Tuesday-Friday (second week) from 7:15 – 17:45.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Tuan Dam can be reached at (571) 272-3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANTONY NGUYEN-BA
PRIMARY EXAMINER
December 15, 2005